

# **Tulare County Enforcement Workplan for Fiscal Year 2006/2007**

## **Pesticide Use Enforcement (PUE) Resources and Workload**

### **Personnel**

- 7 full time licensed PUE Inspectors
- 1 Supervising Inspector
- 1 Deputy Agricultural Commissioner
- 1 part time Systems Analyst
- 4 full time equivalent clerical/data entry positions

### **Equipment/Facilities**

- Tulare office equipped with 11 dedicated computer work stations for permit issuance
- 6 District offices with scheduled pesticide office hours for public access
- licensed Inspectors are provided a vehicle for duty use
- all staff have e-mail and internet availability

### **Responsibilities**

- more than 3500 issued Restricted Materials permits
- more than 550 issued Operator Identification numbers
- approximately 2,600 certified Private Applicators
- more than 15,000 Notices of Intent received/reviewed annually
- approximately 270 registered Pest Control Businesses
- approximately 210 registered Pest Control Advisors
- approximately 215 registered Farm labor Contractors
- more than 65 completed Notifications for structural businesses
- approximately 200,000 lines on pesticide use reports
- more than 600 specified Groundwater Protection Areas
- county is designated as a Citrus Bee Protection Area by regulation

## **A. Restricted Materials Permitting**

### **Permit Evaluation**

Licensed inspectors issue permits for restricted pesticides to the operator of the property or a designated representative such as a certified employee or pest control business documented with a Letter of Authorization. Permits are site and pesticide specific and are issued with multi-year validity based on specific criteria. Single year permits will be issued to permit applicants with annual crops or poor regulatory compliance. The required information is first entered into the Restricted Materials Management System (RMMS). Once the printed permit has been validated, three copies are provided to the applicant for distribution to their chemical dealerships. Specific information may be electronically queried using RMMS.

The Tulare office is staffed weekdays 8 am to 5 pm with a licensed inspector capable of permit issuance and Notice of Intent (NOI) review. Weekend NOI review is scheduled for Saturday afternoons on a rotating PUE inspector basis. We receive NOI's primarily by fax but allow submission in person and into a central drop box at the Tulare office only. Upon receipt NOI's are date stamped then checked using RMMS. The specified applicator is contacted immediately if problems are discovered and a denial form is completed to document the situation. We will review established procedures for our inspectors to understand and complete the required denial form. District offices are staffed with licensed inspectors for scheduled office hours and are capable of permit and supplement issuance.

All original permits and related documents such as maps, private applicator certificates, and Section 18 supplements are reviewed by licensed PUE staff for errors and omissions in the Tulare office. Experience is needed for this activity by the reviewing inspectors. We will consistently and uniformly review this work in a timely manner.

### **Goals and Objectives**

- to assure that the restricted materials permit system protects people and the environment while allowing for effective pest control
- to keep PUE staff current with respect to both pesticide products and regulations

## Deliverables

- evaluate and update Tulare County permit conditions for 2007 for adverse environmental effects
- deliver permits and supplements issued at district offices to the Tulare office in a timely manner
- continue to have Monday morning meetings to present and discuss areas of concern and to exchange important information
- periodic district office visits by PUE deputy to keep district inspectors current with permit requirements
- identify errors/omissions in the permit issuance process and correct through staff training

## Site Monitoring Plan

Our commitment is to implement and continue measures that ensure a site monitoring plan which considers pesticide hazards, immediate surroundings, local conditions, fieldwork and cropping patterns, and permittee/licensee compliance history. All pre-application site inspections will be documented on the proper form (PR-ENF-102) and signed by a licensed inspector. All site monitoring will include evaluation of pesticide toxicity and environmental concerns such as residences, sensitive crops, and endangered species.

We will continue to focus site monitoring efforts in the areas of cotton defoliation and field fumigation. Distance measuring wheels will supplement metal tape measures to verify buffer zones and distances required by regulations or specific permit conditions. Recent efforts to pre-site locations that involve proposed Banvel applications will be continued due to specific label requirements.

Permit sites associated with previous problems such as pesticide drift or beekill will receive additional focus/inspection from the district inspector

familiar with the specifics of the situation. At a minimum this will deliver increased visibility and awareness.

The objective of this plan is to increase compliance and reduce problems on a proactive basis. A decrease in total non-compliances may be an indicator of success if all other factors are equal. In consideration of proposed pesticide enforcement response policy the Tulare County site monitoring plan may be amended as needed.

### Goals and Objectives

- to ensure a site monitoring plan that considers pesticide hazards, sensitive sites, local conditions and cropping patterns, fieldworker safety, and compliance history
- improve site accuracy for NOI's and pesticide use reports submitted by both private and commercial applicators

### Deliverables

- PUE staff will arrange and complete an actual application inspection for all "chloropicrin only" field fumigations and a representative number of application inspections for all other restricted fumigants
- pre-application site inspections for a majority of NOI's for field fumigations with particular emphasis on any nearby sensitive sites
- present reporting requirements during continuing education classes in the fall
- RMMS query to identify permits with no submitted use reports

## **B. Compliance Monitoring**

### **Comprehensive Inspection Plan**

Tulare County PUE personnel acknowledge that effective and comprehensive compliance monitoring is essential to assuring the safety of pesticide handlers, fieldworkers, the public, and the environment. Our compliance monitoring will include agricultural and structural pesticide use and records inspections and episode/complaint investigations. One responsibility is a fair and consistent inspection policy with regard to both pesticide label and worker safety requirements. Another responsibility is a timely, complete, and proper response to public complaint calls and illness investigations. To assist Spanish speaking individuals, we have one bilingual licensed pesticide inspector capable of interpreting. Other Spanish language inspectors and clerical staff are also available if required.

Posted targets that are discussed regularly are a critical component of our compliance monitoring that will be continued. A reduction in a number of various inspections is reasonable due to the loss of experienced licensed personnel and fewer working man-hours. The targets are centered around and quantified on the first three areas found on a Pesticide Regulatory Activities Monthly Report (PR-ENF-046): Use Monitoring Inspections, Pest Control Records Inspections, and Structural Pest Control Inspections. Based on the entire PUE program and our available resources the following inspection targets are reasonable and deliverable for fiscal year 2006/2007:

Use Monitoring Inspections- Pre-application    5% (minimum) of NOI's

Application/Property Operator    50

Application/Pest Control Business    35

Field Fumigation    15

Commodity Fumigation    25

Field Worker Safety    35

Mix-Load/Property Operator	25
Mix-Load/Pest Control Business	20
Pest Control Records Inspections- Business Records	15
Employee Safety/Business	15
Dealer Records	10
Advisor Records	25
Employee Safety/Grower	30
Structural Pest Control Inspections- Fumigation (Branch 1)	10
Application/Mix-Load (Branch 2)	15
Business Records	5
Employee Safety/Business	5

District inspectors realize the importance of immediate correction and proper employer supervision when non-compliances are discovered with employee pesticide handlers. Headquarter and Employee Safety inspections will be performed in a timely manner when employee pesticide handlers are found to be in violation of worker safety regulation. This type of follow-up can deliver improved pesticide handler training from employers.

Tulare County has generally attempted to perform inspections on a fair basis representing both agricultural and structural contacts. This fiscal year PUE workplan will realign targets to direct increased inspections toward the Pest Control Records Inspections and Structural Pest Control Inspections areas.

An estimated 200 to 300 compliance actions generated from field inspections and records inspections including pesticide use reports may be reasonably expected. By using proper inspection procedures and pursuing

the targets stated above, we will have a measurable means to monitor overall compliance.

### Goals and Objectives

- to improve worker safety violation followup for monitoring inspections
- timely and complete response to public complaint calls and illness investigations
- reduce erroneous and/or incomplete recommendations from licensed Pest Control Advisors

### Deliverables

- complete Employee Safety/Headquarters Records inspection for all violations of worker safety regulations
- initiate response to complaint calls in an immediate manner
- increase number of Pest Control Advisors Records inspections as documented in stated targets

### **Investigation Response and Reporting Improvement**

Tulare County has experienced a variable pattern of both documented complaint calls and illness investigations. Fortunately, the number of illnesses reported has shown generally decreasing trend for the past few years. We recognize that a single incident/episode may seriously impact the workload of the PUE staff and we must be prepared for such event. Working together, the Agricultural Commissioners and the Department of Pesticide Regulation (DPR) should attempt to prevent such incidents with quality continuing education but realize that response to and reporting of pesticide incidents is inevitable. We will commit to evaluate our investigation response and reporting, use proper techniques for interviews and evidence collection, and correctly document the findings.

Effective July 1, 2006, we have established a toll-free phone number (1-877-506-1598) available in both English and Spanish 24 hours a day 7 days

a week to report alleged pesticide misuse. Recent public outreach efforts by this office have included the distribution of several thousand copies of our “Pesticide Drift...who should you call?” leaflet available in English and Spanish. We have participated in a recent Hispanic Chamber of Commerce event in addition to farmworker safety fairs. A five-minute interview with our bilingual inspector was taped and televised recently on the Spanish language Univision Channel 21. As supported by the Tulare County Board of Supervisors, our outreach efforts will continue and likely expand.

PUE staff will continue to consider investigation response as a very important duty. Our standard practice is to document information from the initiation of the contact and immediately assign the district inspector to respond. The entire interview/evidence collection process is critical to the investigation but can be challenging. Field inspectors maintain digital cameras, sampling supplies/equipment, and appropriate forms for immediate use. Trained inspectors follow the parameters provided in DPR manuals such as Inspection Procedures. Tulare County will commit to deliver rapid and unbiased investigation responses for all situations.

We will strive for timely initiation and completion of all investigations whether arising from public complaint or the medical profession. This effort will result in improved information gathering and consistency. Obviously, factors such as the availability of cooperating involved individuals and prompt, accurate laboratory analysis are critical for success. Communication, information sharing, and clarification with the Enforcement Branch Liaison (EBL) will be a key component of investigation response and reporting improvement. DPR ride-along oversight inspections will be offered with licensed inspectors in Tulare County and will reflect the many varied handling and inspection opportunities of the entire county. Consistent effort will be made to deliver complete and current reports for documentation. It will be emphasized that a written report should completely, fairly, and accurately describe the situation. The written report should contain all information related to the parties involved, location of the site or property, dates of occurrence, and a full description of the incident. Additional supporting evidence such as completed Reports of Loss, Statements, lab results, photographs, etc. should be appropriately attached and referenced. The written report should be fact based and have the ability to stand the test of time. Reports that meet these criteria provide a valuable tool for compliance history assessment.



## Goals and Objectives

- document investigations with a complete and accurate Pesticide Episode Investigation Report made available to DPR for review
- improve through outreach efforts the reporting of pesticide drift to reduce pesticide incidents to people and the environment

## Deliverables

- a 120 day timeframe for non-priority investigation completion is reasonable for most situations and will be delivered
- we will initiate priority episode investigations within two working days and submit a preliminary update to DPR within 15 days
- PUE staff will attend DPR training sessions related to restricted materials and permitting, structural inspections, and advocacy preparation
- participate in both English and Spanish outreach opportunities such as health fairs and media interviews upon request

## **C. Enforcement Response**

### **Enforcement Response Evaluation**

Compliance with pesticide label requirements and regulation is a top priority with PUE staff in Tulare County. To realize the benefit of the regulatory program we must apply our enforcement authority fairly, consistently, and swiftly. Based on a review of trends for the past three years, we can reasonably expect 25 or more Administrative Civil Penalty actions for fiscal year 2006/2007. These actions are the appropriate punitive result of non-compliance. In general, our more experienced district inspectors are responsible for actions involving drift and personal protective equipment (Class A and Class B) violations. Other licensed inspectors are responsible for actions involving procedural problems such as pest control business registration and pesticide use report (Class C) violations. PUE staff understand the difference between compliance actions and enforcement actions.

Tulare County will deliver a fair inspection program that includes compliance/enforcement action when appropriate. The principle that the penalty should fit the non-compliance is paramount. Therefore, the concept of progressive enforcement will be followed. Special emphasis will be placed on the ability to detect repeat violators through both compliance monitoring and enforcement response. Inspectors must review the documentation available for a non-compliant permittee/licensee and present the discovered violation history for the previous 24 month period to the Supervisor or Deputy for direction. All Violation Notices generated by use monitoring inspections should be delivered in person when the operation is located in Tulare County. A prepared narrative with attached supporting documents will be mandatory from the inspector for all illness investigations and when complaint calls generate Administrative Civil Penalties. The Enforcement Response Policy will be reviewed and followed for all situations.

The Tulare County Agricultural Commissioner will remain professional and unbiased when completing and delivering enforcement actions to agricultural and structural operators when required. When appropriate, DPR will be asked for clarification, direction, and assistance. For serious violations or repeat offenders, Tulare County will work with our EBL to identify and discuss possible more stringent enforcement options such as licensing action or referral to the District Attorney.

In summarizing our overall enforcement response, the ultimate goal is a consistent and appropriate reaction to discovered and confirmed violations. Through the entire process communication, credibility, resource allocation, and prioritization are key. Balancing the workload equitably between PUE inspectors and maintaining a team approach to complete the work are highly desirable. Fair and consistent implementation of this workplan is mandatory of all regulatory personnel and agencies. Maintaining the respect of, and credibility with, regulated individuals and businesses while working toward immediate pesticide use compliance will result in long-term pesticide compliance in Tulare County.

### Goals and Objectives

- to continue to improve overall user compliance with pesticide labels and regulations
- to apply the concept of progressive enforcement for violations of pesticide laws and regulations

### Deliverables

- our program will follow the Enforcement Response Policy to improve uniformity within Tulare County and other California counties
- we will thoroughly review the permittee/licensee 24 month history to determine the follow-up action to take
- compliance/enforcement actions will be taken when appropriate
- communication with DPR to determine referral to District Attorney or licensing action